

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

LANCE RUCKER,)	
)	
Plaintiff,)	Civil Action No. 19-194
)	
v.)	District Judge David S. Cercone
)	Magistrate Judge Lisa Pupo Lenihan
)	
ATTORNEY GENERAL OF)	
PENNSYLVANIA, et al.,)	
)	
Defendants.)	

MEMORANDUM ORDER

Currently pending before the Court is a Report and Recommendation (“R&R”) issued by Magistrate Judge Lisa Pupo Lenihan on March 4, 2020, wherein she recommended that this case be dismissed with prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) and 28 U.S.C. § 1915A(b)(1). (ECF No. 34.) Plaintiff was served with the R&R and filed timely Objections thereto on March 16, 2020. (ECF No. 35.)

When a party objects to an R&R, the district court must review *de novo* those portions of the R&R to which objection is made. See United States v. Raddatz, 447 U.S. 667, 673 (1980); Fed. R. Civ. P. 72(b). However, to obtain *de novo* review, a party must clearly and specifically identify those portions of the R&R to which it objects. Goney v. Clark, 749 F.2d 5, 6-7 (3d Cir. 1984). The district court may accept, reject or modify, in whole or in part, the findings and recommendations made by the magistrate judge. Raddatz, 447 U.S. at 673-74.

Plaintiff first objects to the Magistrate Judge’s finding/statement that he is proceeding in this action *in forma pauperis*. Plaintiff disputes this because he paid the \$350.00 filing fee. Plaintiff, however, is incorrect. Plaintiff submitted a Motion for Leave to Proceed *in forma*

pauperis (“IFP”) and it was docketed on July 31, 2019. (ECF No. 6.) While that Motion was initially denied, the Court later vacated that Order and granted Plaintiff’s Motion to Proceed IFP on August 1, 2019. (ECF Nos. 9 & 10.) In said Order, Plaintiff was assessed the total \$350.00 filing fee and directed to pay an initial partial filing fee of \$25.91, which he paid soon thereafter. (ECF Nos. 10 & 13.) While Plaintiff chose to pay the remaining portion of the filing fee in two installments (\$300 received on August 27, 2019 and \$24.09 received on October 2, 2019) instead of the installment schedule specified in the Court’s Order granting his IFP Motion, Plaintiff is still proceeding *in forma pauperis* and that status does not change by virtue of paying the full filing fee.¹ Accordingly, this objection is overruled.

Plaintiff’s remaining objections have been considered but do not in any way undermine the R&R’s recommended disposition. Accordingly, they are also overruled and the following Order is now entered.

AND NOW, this 12th day of May, 2020;

IT IS HEREBY ORDERED that the Report and Recommendation (ECF No. 34) is adopted as the Opinion of the Court.

IT IS FURTHER ORDERED that the claims in Plaintiff’s Amended Complaint (ECF No. 21) and Supplements thereto (ECF Nos. 27, 28, 32, 33) are dismissed with prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) and 28 U.S.C. § 1915A(b)(1).

IT IS FURTHER ORDERED that the Clerk of Court mark this case closed.

¹ Proceeding *in forma pauperis* does not mean that no filing fee is assessed and collected as prisoners proceeding *in forma pauperis* are still assessed the mandatory \$350.00 filing fee. *See* 28 U.S.C. § 1915.

AND IT IS FURTHER ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Plaintiff has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

s/David Stewart Cercone
David S. Cercone
Senior United States District Judge

cc: Lance Rucker
DM9093
SCI Forest
P.O. Box 307
286 Woodland Drive
Marienville, PA 16239